

HOUSE BILL 955

M3

2lr1799

By: **Delegates Rosenberg and Oaks**

Introduced and read first time: February 10, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Lead Poisoning – Affected Property – Window Replacement**

3 FOR the purpose of altering the modified risk reduction standard that owners of
4 affected properties are required to satisfy under certain circumstances; altering
5 the circumstances under which an owner of affected property must satisfy the
6 modified risk reduction standard; and generally relating to lead poisoning
7 prevention.

8 BY repealing and reenacting, with amendments,
9 Article – Environment
10 Section 6–819
11 Annotated Code of Maryland
12 (2007 Replacement Volume and 2011 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Environment**

16 6–819.

17 (a) The modified risk reduction standard shall consist of performing the
18 following:

19 (1) Passing the test for lead–contaminated dust under § 6–816 of this
20 subtitle; and

21 (2) Performing the following lead hazard reduction treatments:

22 (i) A visual review of all exterior and interior painted surfaces;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) The removal and repainting of chipping, peeling, or flaking
2 paint on exterior and interior painted surfaces;

3 (iii) The repair of any structural defect that is causing the paint
4 to chip, peel, or flake, that the owner of the affected property has knowledge of or, with
5 the exercise of reasonable care, should have knowledge of;

6 (iv) Repainting, replacing, or encapsulating all interior
7 lead-based paint or untested painted windowsills with vinyl, metal, or any other
8 material in a manner and under conditions approved by the Department;

9 (v) Ensuring that caps of vinyl, aluminum, or any other
10 material in a manner and under conditions approved by the Department, are installed
11 in all window wells where lead-based paint or untested paint exists in order to make
12 the window wells smooth and cleanable;

13 (vi) Except for a treated or replacement window that is free of
14 lead-based paint on its friction surfaces, fixing the top sash, subject to federal, State,
15 or local fire code standards, of all windows in place in order to eliminate the friction
16 caused by the movement of the top sash;

17 (vii) Rehangng all doors in order to prevent the rubbing together
18 of a lead-painted surface with another surface;

19 (viii) Ensure that all kitchen and bathroom floors are overlaid
20 with a smooth, water-resistant covering; and

21 (ix) HEPA-vacuuuming and washing with high phosphate
22 detergent or its equivalent, as determined by the Department, any area of the affected
23 property where repairs were made.

24 (b) (1) A tenant of an affected property may notify the owner of the
25 affected property of a defect in the affected property under this section in accordance
26 with this subsection.

27 (2) Notice of a defect under this section shall consist of:

28 (i) If the modified risk reduction standard has not been
29 satisfied for the affected property, the presence of chipping, peeling, or flaking paint on
30 the interior or exterior surfaces of the affected property or of a structural defect
31 causing chipping, peeling, or flaking paint in the affected property; or

32 (ii) If the modified risk reduction standard has been satisfied for
33 the affected property, a defect relating to the modified risk reduction standard.

34 (c) (1) After February 23, 1996, an owner of an affected property shall
35 satisfy the modified risk reduction standard:

1 (i) Within 30 days after receipt of written notice that a person
2 at risk who resides in the property has an elevated blood lead level documented by a
3 test for EBL greater than or equal to 15 ug/dl before February 24, 2006 or greater than
4 or equal to 10 ug/dl on or after February 24, 2006; or

5 (ii) Within 30 days after receipt of written notice from the
6 tenant, or from any other source, of:

- 7 1. A defect; and
8 2. The existence of a person at risk in the affected
9 property.

10 **(2) ON OR AFTER OCTOBER 1, 2012, WITHIN 30 DAYS AFTER AN**
11 **OWNER OF AN AFFECTED PROPERTY RECEIVES WRITTEN NOTICE THAT A**
12 **PERSON AT RISK WHO RESIDES IN THE PROPERTY HAS AN ELEVATED BLOOD**
13 **LEAD LEVEL DOCUMENTED BY A TEST FOR EBL GREATER THAN OR EQUAL TO 5**
14 **UG/DL, THE OWNER SHALL SATISFY THE MODIFIED RISK REDUCTION STANDARD**
15 **BY:**

16 **(I) PASSING THE TEST FOR LEAD-CONTAMINATED DUST**
17 **UNDER § 6-816 OF THIS SUBTITLE;**

18 **(II) REPLACING ALL WINDOWS CONTAINING LEAD-BASED**
19 **PAINT WITH NEW WINDOWS THAT ARE LEAD-FREE;**

20 **(III) PERFORMING THE LEAD HAZARD REDUCTION**
21 **TREATMENTS SPECIFIED IN SUBSECTION (A)(2)(I), (II), (III), (IV), (VII), (VIII),**
22 **AND (IX); AND**

23 **(IV) PERFORMING ANY OTHER LEAD HAZARD REDUCTION**
24 **MEASURES REQUIRED BY THE LOCAL HEALTH DEPARTMENT OR AUTHORIZED**
25 **AGENCY.**

26 **[(2)](3)** (i) An owner who receives multiple notices of an elevated
27 blood level under this subsection or multiple notices of defect under subsection (d) of
28 this section may satisfy all such notices by subsequent compliance with the risk
29 reduction measures specified in subsection (a) of this section, as documented by
30 satisfaction of subsection (f) or (g) of this section, if the owner complies with the risk
31 reduction measures specified in subsection (a) of this section after the date of the test
32 documenting the elevated blood level or after the date the notices of defect were
33 issued.

1 (ii) Subparagraph (i) of this paragraph does not affect an
2 owner's obligation to perform the risk reduction measures specified in subsection (a) of
3 this section for a triggering event that occurs after the owner satisfies the provisions of
4 subparagraph (i) of this paragraph.

5 (d) After May 23, 1997, an owner of an affected property shall satisfy the
6 modified risk reduction standard within 30 days after receipt of written notice from
7 the tenant, or from any other source, of a defect.

8 (e) An owner of an affected property is in compliance with subsection (c) or
9 (d) of this section if, as applicable:

10 (1) The owner satisfies the modified risk reduction within 30 days
11 after receiving a notice of elevated blood lead level or a notice of defect in accordance
12 with this section; or

13 (2) The owner provides for the temporary relocation of tenants to a
14 lead-free dwelling unit or another dwelling unit that has satisfied the risk reduction
15 standard in accordance with § 6-815 of this subtitle within 30 days after the receipt of
16 a notice of elevated blood lead level or a notice of defect.

17 (f) Except as provided in § 6-817(b) of this subtitle, on and after February
18 24, 2006, an owner of affected properties shall ensure that 100% of the owner's
19 affected properties in which a person at risk does not reside have satisfied the
20 modified risk reduction standard.

21 (g) An owner of an affected property shall verify satisfaction of the modified
22 risk reduction standard by submitting a report from an accredited inspector to the
23 Department.

24 (h) Notice given under this section shall be written, and shall be sent by:

25 (1) Certified mail, return receipt requested; or

26 (2) A verifiable method approved by the Department.

27 (i) The Department may, by regulation, eliminate any treatment from the
28 modified risk reduction standard if the Department finds that performing the
29 treatment in an occupied property is harmful to public health.

30 (j) (1) Exterior work required to satisfy the modified risk reduction
31 standard may be delayed, pursuant to a waiver approved by the appropriate person
32 under paragraph (2) of this subsection, during any time period in which exterior work
33 is not required to be performed under an applicable local housing code or, if no such
34 time period is specified, during the period from November 1 through April 1, inclusive.

1 (2) A waiver under paragraph (1) of this subsection may be approved
2 by the code official for enforcement of the housing code or minimum livability code of
3 the local jurisdiction, or, if there is no such official, the Department of Housing and
4 Community Development.

5 (3) Notwithstanding the terms of the waiver, all work delayed in
6 accordance with paragraph (1) of this subsection shall be completed within 30 days
7 after the end of the applicable time period.

8 (4) Any delay allowed under paragraph (1) of this subsection may not
9 affect the obligation of the owner to complete all other components of the risk
10 reduction standard and to have those components inspected and verified.

11 (k) The report of the inspector verifying compliance with this subtitle shall
12 create a rebuttable presumption, that may be overcome by clear and convincing
13 evidence, that the owner is in compliance with the modified risk reduction standard
14 for the affected property unless there is:

15 (1) Proof of actual fraud as to that affected property; or

16 (2) Proof that the work performed on the affected property was not
17 performed by or under the supervision of personnel accredited under § 6–1002 of this
18 title.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2012.